

**NEVADA DEPARTMENT OF CORRECTIONS  
ADMINISTRATIVE REGULATION  
323**

**ADMINISTRATION OF SICK LEAVE  
(Temporary)**

**Supersedes: AR 323 (06/16/08 rescinded 7/9/08)**

**Effective Date: 01/12/09**

**AUTHORITY:** AR-322; NRS 284.065; 284.155; 284.355; 284.383; NAC 284.523; NAC 284.5234; NAC 284.5235; NAC 284.554; NAC 284.566; NAC 284.581; NAC 284.650; 29 C.F.R. § 825.100 et seq, Family and Medical Leave Act of 1993

**RESPONSIBILITY**

The Supervisors are responsible to make affirmative decisions regarding all absences daily, and to review employee time records at least monthly for indications of possible abuse.

The employees are responsible to report for duty on time on a daily basis. Absences shall be approved in accordance to Administrative Regulation 322.

**323.01 GENERAL PROVISIONS**

1. The Warden/Division Head shall ensure that all employees have access to and are advised of the contents of this regulation.
2. All employees shall accumulate paid sick leave at the rate of 4.36 hours per pay period. Sick leave may be used for illness, disability, or injury of the employee; appointments with a doctor, dentist or other professional medical practitioner (including a person who holds a current national certification as a nurse practitioner), or death of a member of an employee's immediate family or household. The department will not discipline an employee for legitimate use of sick days if taken within procedural guidelines.
3. An employee suspected of sick leave abuse will be placed on Proof Status to determine whether such abuse is taking place.
4. An employee who utilizes sick leave in a particular pay period will not be eligible for voluntary overtime for the next two pay periods. This does not apply to employees who use DOC Form 1000 to schedule sick leave in advance for appointments, surgeries, etc.
5. An employee shall not be considered for voluntary overtime on their Regular Days Off (RDO's).

## **323.02 REQUIREMENTS**

1. All employees' request for sick leave must be supported by an Authorization for Leave and Overtime Request Form (DOC 1000) signed by the employee. In the event an employee calls in, the DOC 1000 shall be completed by the supervisor and filed until the employee's return. The DOC 1000 shall be completed no later than forty-eight (48) hours after the employee's return from the absence(s), unless extenuating circumstances exist. The supervisor will ensure that the DOC 1000 is signed off on by the employee upon their return. Failure of an employee to provide such will result in the absence being unauthorized. The employee will be considered Absent Without Leave (AWOL) and progressive discipline will be initiated.

2. Supervisors must process all signed DOC 1000 forms generated from call-ins within three calendar days of receipt, either approving or disapproving the request. The original will be forwarded to Accounting, and a copy placed in the supervisors file and a copy given to the employee.

3. The Warden/Division Head shall designate supervisory staff to review the attendance record of each employee within twenty (20) days of the conclusion of each calendar month.

A. If the supervisor finds the employee's attendance to be acceptable, the supervisor will make an entry on the Performance Card indicating acceptable attendance. Although a formal review is only required once each month, supervisors must ensure on-going scrutiny of sick time usage and AWOL's.

B. If the supervisor finds the employee's attendance to be unacceptable, additional steps will be taken:

a. Counseling is the first step in working with employees who may have an attendance problem. Documentation of this review shall be noted on the Performance Card form, a copy of which shall be maintained for each employee in the supervisor's file.

b. A Letter of Instruction (Letter) will be issued, which places the employee on Proof Status for 90 days. Documentation of this review shall be noted on the Performance Card form, a copy of which shall be maintained for each employee in the supervisor's file.

1. The Letter will include a direct order to provide proof for a fixed period of 90 days.

2. The Letter will include advisement that failure to provide proof will result in the employee being placed in AWOL status on the day(s) in which he or she failed to provide proof as ordered.

3. The Letter must order the employee to refrain from abusing their sick leave.

c. Proof status may be continued for an additional 60 days. Documentation of this review shall be noted on the Performance Card form, a copy of which shall be maintained for each employee in the supervisor's file.

d. Further discipline pursuant to AR 339 will be employed if abuse of sick leave becomes clear after the initial 90 days, or after an additional 60 days, of Proof Status.

### **323.03 PROOF STATUS**

1. In the next month's attendance record review following counseling, if the supervisor still suspects that the employee is abusing sick time, the supervisor will immediately issue a Letter placing the employee on proof status for a 90-day period. Proof status shall take effect immediately.

A. A Letter shall be used to notify employees of initial placement on, or continuation of, proof status. All Letters shall be placed in the employee's personnel file with a copy to the supervisors' file.

B. Use of sick leave supported by appropriate medical documentation will not support a continuation of Proof Status, unless additional fact(s) support suspected abuse. Use of sick leave shall be reviewed on a case-by-case basis.

C. Proof Status shall be reviewed with the employee after the initial 90-day period and/or 60 days after the continuation on Proof Status. Employees shall be given either:

a. Written notice of their continuation on Proof Status for an additional 60 day period if their use of sick time continues to reflect reason to suspect abuse;

b. Escalation of progressive discipline if sick leave abuse is confirmed; or

c. Written notice that Proof Status is terminated.

D. Removal from Proof Status shall be documented in a written correspondence to the employee. The correspondence shall be placed in the employee's personnel file with a copy to the supervisors' file.

2. An employee on Proof Status who fails to provide proper medical certification of the use of earned sick time shall be considered insubordinate, as they will not have complied with the terms of their written direct order to cease abusing sick leave. The Supervisor will then place the employee into AWOL status for the day in which he or she failed to provide proof as ordered. Disciplinary action in accordance with AR 339 may then be considered by the Appointing Authority.

3. An employee on Proof Status will not be considered for voluntary overtime.

4. Proper medical certification for Proof Status must contain the following minimum elements:

- A. Signature, address, and phone number of the medical practitioner.
  - B. The pertinent date(s) in question.
  - C. An indication that the employee was unable to work on the date(s) in question for reason of personal or family illness.
5. Employees on Proof Status who utilize sick time for bereavement shall provide appropriate documentation as requested by the supervisor (i.e., death certificate, obituary).
6. Employees are responsible to provide proper certification. Documents that do not contain the necessary elements shall not be accepted, and the employee shall be so notified. The absences shall be considered unauthorized if acceptable certification is not subsequently provided within five (5) work days.
7. The Department recognizes that personal problems may affect attendance. In addition to counseling, Proof Status, and discipline, supervisors are strongly encouraged to utilize employee referrals to the Employee Assistance Program (EAP) through the Department's Personnel Division. Such referrals may be made anytime during the attendance or performance review process where the need is apparent.

**NOTE:** Proof may be required for a single absence only if reasonable grounds exist to suspect abuse for the day in question.

#### **323.04 FAMILY AND MEDICAL LEAVES OF ABSENCE (FMLA)**

1. If you have been employed by the State for at least twelve (12) months and you have worked at least 1,250 hours during the 12-month period preceding the start of the leave, you are eligible for up to a total of twelve (12) work weeks of unpaid leave during any rolling twelve (12) month period for one or more of the following reasons:
- A. Because of the birth of your child and in order to care for such child (within 12 months after the birth of the child);
  - B. Because of the placement of a child with you for adoption or foster care (within 12 months of the placement of the child);
  - C. In order to care for your spouse, child, or parents if they have a "serious health condition," or
  - D. Because of a "serious health condition" that makes you unable to perform the functions of your job.
2. The federal law provides for FMLA leaves of absence to be unpaid. However, you may qualify for additional benefits under other State leave policies. If your spouse also works for the

State and you both become eligible for a leave under paragraphs A or B above, or for the care of a sick parent under paragraph C above, the two of you together will be limited to a combined total of twelve (12) work weeks of leave in any rolling 12-month period.

3. Medical Certification – Any request for a leave under paragraphs C or D above must be supported by certification issued by the applicable health care provider. You may obtain a certification form from your personnel officer/liaison.

4. At its discretion, the State may require a second medical opinion and periodic recertification to support the continuation of a leave. If the first and second opinions differ, a third opinion can be obtained from a health care provider jointly approved by both you and your employing facility.

**NOTE:** FMLA does not protect an employee from discipline, if that employee demonstrates any type of abuse that is noted in this procedure while on FMLA progressive discipline shall be initiated.

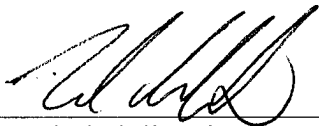
### **323.05 APPLICABILITY**

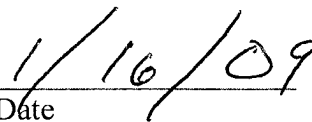
This regulation does require an Operational Procedure.

This regulation requires a quarterly internal audit.

### **REFERENCES**

None

  
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Howard Skolnik, Director

  
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Date